APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,145	09/30/2003	Jerry A. Overton	2381	5609

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EXAMINER
LY, NGHI H

ART UNIT	PAPER NUMBER
2617	

DATE MAILED: 08/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Advisory Action *Before the Filing of an Appeal Brief*	10/675,145	OVERTON, JERRY A.
	Examiner	**Art Unit**	
	Nghi H. Ly	2617	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 July 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: *1-20*.

   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see Attached.

12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). 06/16/06

13. ☐ Other: _____.

CHARLES APPIAH
PRIMARY EXAMINER

The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments filed 07/18/06 have been fully considered but they are not persuasive.

On page 7 of Applicant's remarks, Applicant argues that the combination of Joyce and Pines does not teach "querying the set of data to uncover at least one data-reference that the set of data correlates with the current location of the device and that the data set correlates with the one or more capabilities of the device".

In response, Joyce teaches querying the set of data to uncover at least one data-reference that the set of data correlates with the current location of the device (see fig.5, step 206 "*access profile*" reads on Applicant's "*querying*" and column 7, lines 52-59, see "*The application server 18 will receive the profile information, and request any available content from the content server 22. Assuming that content is available, the content server 18, which may send information to the mobile terminal 10*". Joyce's "*the profile information*" reads on Applicant's "*set of data*", and the teaching of Joyce does indeed teach Applicant's "uncover" since Joyce teaches after receive the profile information, request any available content and then send information to the mobile terminal. In addition, Applicant's specification page 3, lines 9-16 merely recites "uncover", however, the Applicant's specification fails to further disclose how to "uncover". Therefore, the teaching of Joyce does indeed teach Applicant's claimed limitation with the broadest

reasonable interpretation), acquiring data to which the at least one data-reference

points (also see Abstract and column 1, line 54 to column 2, line 21), and sending the

acquired data to the device in response to the request (also see Abstract and column 1,

line 54 to column 2, line 21),

Pines teaches "querying the set of data to uncover at least **one** data-reference

that the set of data correlates with the **one** or more **capabilities of the device**" (see

column 26, lines 31-53, see "*System 2 consults the Pre-announcement field 59 of Call*

Completion Data Packet 50, to determine the method of transmitting the pre-

announcement. The pre-announcement can be either in text or voice format Using the

fields in Call Completion Data Packet 50, System 2 determines what format is available

based on the carrier and the device capabilities of Wireless Apparatus 6" and they read

on Applicant's "*querying the set of data to uncover at least* **one** *data-reference that the*

set of data correlates with the **one** *or more* **capabilities of the device**", also see

"*capabilities*", "*voice format*" and "*text format*". In addition, Applicant's specification

page 3, lines 9-16 merely recites "*uncover*", but fails to further disclose how to

"*uncover*". Therefore, the teaching of Pines does indeed teach Applicant's claimed

limitation with the broadest reasonable interpretation) *and* the combination of Joyce and

Pines does indeed teach Applicant's claims.

On pages 8, 9 and 10 of Applicant's remarks, Applicant further argues that Pines

does not teach "querying the set of data to uncover at least **one** data-reference that the

set of data correlates with **both** the current location of the device **and** that the data set

correlates with the **one** or more capabilities of the device".

In response, **Joyce** teaches "querying the set of data to uncover at least **one** data-reference that the set of data correlates with the **current location** (see the teaching of Joyce above or in previous Office action),

Pines teaches "querying the set of data to uncover at least **one** data-reference that the set of data correlates with the one or more **capabilities of the device**" (see column 26, lines 31-53, see "*System 2 consults the Pre-announcement field 59 of Call Completion Data Packet 50, to determine the method of transmitting the pre-announcement. The pre-announcement can be either in text or voice format Using the fields in Call Completion Data Packet 50, System 2 determines what format is available based on the carrier and the device capabilities of Wireless Apparatus 6*" and they read on Applicant's "*querying the set of data to uncover at least one data-reference that the set of data correlates with the one or more capabilities of the device*", also see "*capabilities*", "*voice format*" and "*text format*". In addition, Applicant's specification page 3, lines 9-16 merely recites "*uncover*", but fails to further disclose how to "*uncover*". Therefore, the teaching of Pines does indeed teach Applicant's claimed limitation with the broadest reasonable interpretation) *and* the combination of Joyce and Pines does indeed teach Applicant's claims.

For the above reasons, the Examiner believes that the rejections to claims are proper.

Conclusion

2.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Nghi H. Ly whose telephone number is (571) 272-7911.

The examiner can normally be reached on 8:30 am-5:30 pm Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Nick Corsaro can be reached on (571) 272-7876. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nghi H. Ly